

Court of Appeals, State of Michigan

ORDER

People of MI v Douglas Alexander Bogar

Docket No. 268036

LC No. 2002-187724-FH

Henry William Saad
Presiding Judge

Kathleen Jansen

E. Thomas Fitzgerald
Judges

The Court orders that the motion for peremptory reversal pursuant to MCR 7.211(C)(4) is GRANTED as follows. We VACATE the 18 month to 6-year prison sentence imposed by the Oakland Circuit Court on May 14, 2004 and REMAND this case to that court for resentencing within 56 days of the clerk's certification of this order. The record shows that PRV 5 of the legislative sentencing guidelines was mis-scored, that this mis-scoring resulted in an erroneous guidelines' range of 0 to 21 months instead of 0 to 11 months, and that the circuit court sentenced defendant to 18 months to 6 years' imprisonment based on this erroneous guidelines range. The sentencing guidelines applied to defendant's sentence following his violation of probation. *People v Hendrick*, 472 Mich 555; 697 NW2d 511 (2005); *People v Parker*, 267 Mich App 319; 704 NW2d 734 (2005). Defendant did not waive the error by failing to contest the guidelines' scoring at his original sentencing. *People v Kimble*, 470 Mich 305; 684 NW2d 669 (2004); *Parker*.

Since this peremptory order gives defendant all the relief he requested, defendant's motion to expedite the appeal is DENIED as moot.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 06 2006

Date

Sandra Schultz Mengel
Chief Clerk